HON'BLE SRI JUSTICE GHULAM MOHAMMED

AND

HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No.23959 of 2007

24-12-2007

Between:

Nandamuri Vijaya Durga
and another

… Petitioner

and

Nandamuri Kalyana Chakravarthi alias
Pani Kumara Raja, and two others.

… Respondents

HON'BLE SRI JUSTICE GHULAM MOHAMMED

AND

HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No.23959 of 2007

ORDER: (Per Hon'ble Sri Justice B.Seshasayana Reddy)

This writ petition has been filed by the respondents in L.G.C.No.31 of 2002 against the order dated 26-10-2007 passed in I.A.No.769 of 2007 on the file of Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, 1982.

2. Respondents 1 and 2 herein filed I.A.No.769 of 2007 under Order 18 Rule 4 and Order 26 Rule 4 read with Section 151 of Code of Civil Procedure seeking appointment of Advocate Commissioner to record cross-examination of RWs 1 to 3. The petitioners herein filed a counter resisting the petition. The learned Special Court, on considering the material brought on record and on hearing counsel for the parties, proceeded to allow the petition and appointed Advocate Commissioner for recording cross-examination of RWs 1 to 3 by order dated 26-10-2007. Hence, this writ petition.

3. Rule nisi came to be issued on 13-11-2007. The respondents in the writ petition filed WVMP No.3173 of 2007 with a prayer to vacate the interim stay granted on 13-11-2007 in WPMP No.31191 of 2007.

4. At this stage, respondents 1 and 2 in the writ petition filed a memo seeking permission of this Court to withdraw the petition filed by them before the Special Court seeking appointment of an Advocate Commissioner to record cross-examination of RWs 1 to 3. The petitioners filed objections to the said memo.

5. Heard learned counsel appearing for petitioners and learned counsel appearing for contesting respondents.

6. Sri C.Hanumantha Rao, learned counsel appearing for petitioners took us through the affidavit filed by respondents 1 and 2 to show that uncharitable allegations have been made against the writ petitioners. He has also drawn our attention to the reply affidavit of the petitioners to the counter-affidavit filed on behalf of first respondent.

7. The question for consideration is whether respondents 1 and 2 can be permitted to withdraw the petition filed by them seeking appointment of Advocate Commissioner to record cross-examination of RWs 1 to 3. Allegations and counter-allegations have been made by the parties against each other. This is not the Forum to adjudicate upon the rival contentions put forth by the parties touching upon the 'wills', which are the subject matter in LGC. It is suffice to state that contesting respondents herein seek permission of this Court to withdraw the petition filed by them seeking appointment of Advocate Commissioner to record

cross-examination of RWs 1 to 3. When such request has been made, we do not see any reason to reject the same. Hence, respondents 1 and 2 are permitted to withdraw I.A.No.769 of 2007 in L.G.C.No.31 of 2002 filed by them seeking appointment of Advocate Commissioner to record cross-examination of RWs 1 to 3. When once I.A. is dismissed as withdrawn, the writ petition becomes infructuous and accordingly the writ petition is dismissed as redundant. No order as to costs.

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GHULAM MOHAMMED, J.

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B.SESHASAYANA REDDY, J.

24-12-2007

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